

EXHIBIT H

MbiWherO

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 HERMES INTERNATIONAL, *et al.*,

4 Plaintiffs,

5 v.

22 Civ. 384 (JSR)

6 MASON ROTHSCHILD,

7 Defendant.

8 Oral Argument

9 New York, N.Y.
November 18, 2022
2:00 p.m.

10 Before:

11 HON. JED S. RAKOFF,

12 District Judge

13 APPEARANCES

14 BAKER HOSTETLER LLP
Attorneys for Plaintiffs

15 BY: OREN J. WARSHAVSKY
16 MEGAN A. CORRIGAN
17 FRANCESCA ROGO

18 LEX LUMINA PLLC
Attorneys for Defendant
19 BY: RHETT MILLSAPS

20 CHRISTOPHER SPRIGMAN
21
22
23
24
25

MbiWheO

1 have to look at who the defendant is and his intent through it.
2 Yes, you said we accused him of wanting to make a buck, and we
3 did. But we accused him of more than that.

4 THE COURT: His own words were make a bag, but as I
5 understand it, that's slang for make a lot of money.

6 MR. WARSHAVSKY: He said plenty, and I'll get to some
7 of that, if you like. But if we even take a step back, what is
8 Mr. Rothschild, when he testifies that he's an artist? Because
9 that's what counsel spoke about. And there, I point to exhibit
10 117, and if you'd like, I'd be happy to give a copy to you and
11 to counsel. It's in our papers. But Mr. Rothschild's first
12 foray into art was taking a Champion T-shirt and printing the
13 names of colleges, including Parsons. And he got a cease and
14 desist letter from Parsons. In his mind, though, that was art.
15 I would say that's pure infringing. I would say that's no
16 different than anything a few blocks from here where people
17 sell Rolexes or other fake goods. He says it's art. Maybe
18 there is some creativity. Maybe it requires some skill.

19 THE COURT: The images are not identical to anything
20 that Hermès produces or sells. They're covered with this fur.

21 MR. WARSHAVSKY: OK. You're a step ahead of where I
22 was going to, but I'm happy to get there.

23 THE COURT: Whatever you prefer.

24 MR. WARSHAVSKY: Well, again, we're accusing the whole
25 brand, and I want to make sure that that's not confused. I

MbiWheO

1 know the defendant would like it if we sued for a picture.
2 We're not. We're suing for the use of the name MetaBirkins,
3 and I think in that regard, I want to start, perhaps, with
4 Mr. Rothschild's statements themselves. Right?

5 When he commenced this project, what did he call it?
6 He called it Birkin. Right? And there is, he first told a
7 friend and it's paragraph 197. It's an undisputed fact. He
8 first told his friend he expected to take a nice 16- to 17,000
9 off of the Birkins, period. Right? To entice the designer,
10 the person that actually created these images, to generate
11 these images, he said he had an offer of 36,000 for 50 bags but
12 he thought he could get it to a hundred thousand for a hundred
13 of them, and he doesn't dispute that. He says he wanted to
14 print money. But then --

15 THE COURT: Maybe I'm not totally following your
16 point. The reason a purchaser would purchase one of these NFTs
17 was not so they could own the brand. It was so they could own
18 the underlying image.

19 MR. WARSHAVSKY: Actually, that's not even clear from
20 the evidence we submitted, your Honor. You could see that some
21 people actually thought and wrote on social media they thought
22 they were getting a bag as well, thought they were getting a
23 real live bag.

24 THE COURT: All right, but they certainly didn't think
25 they were just getting the words MetaBirkins. That wasn't what